City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name:	**Feldman Shed**
Proposal Address:	1307 121st Ave SE
Proposal Description:	Critical Areas Land Use Permit for the construction of a 192 SF shed within the top-of-slope buffer from a steep slope critical area. The proposed location is approximately 5 feet from the top of the steep slope critical area.
File Number:	**20-123659-LO**
Applicant:	Frederick Feldman
Decisions Included:	Critical Areas Land Use Permit (Process II. LUC 20.30P)
Planner:	Richard Hansen, Assistant Planner
State Environmental Policy Act Threshold Determination:	**Exempt**
Director's Decision:	**Approval with Conditions** Michael A. Brennan, Director Development Services Department for Elizabeth Stead, Land Use Director Development Services Department

Application Date:	December 28, 2020
Completeness Date:	January 22, 2021
Notice of Application Publication Date:	February 4, 2021
Decision Publication Date:	April 15, 2021
Project Appeal Deadline:	April 29, 2021

For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

CONTENTS

Documents Referenced in Files

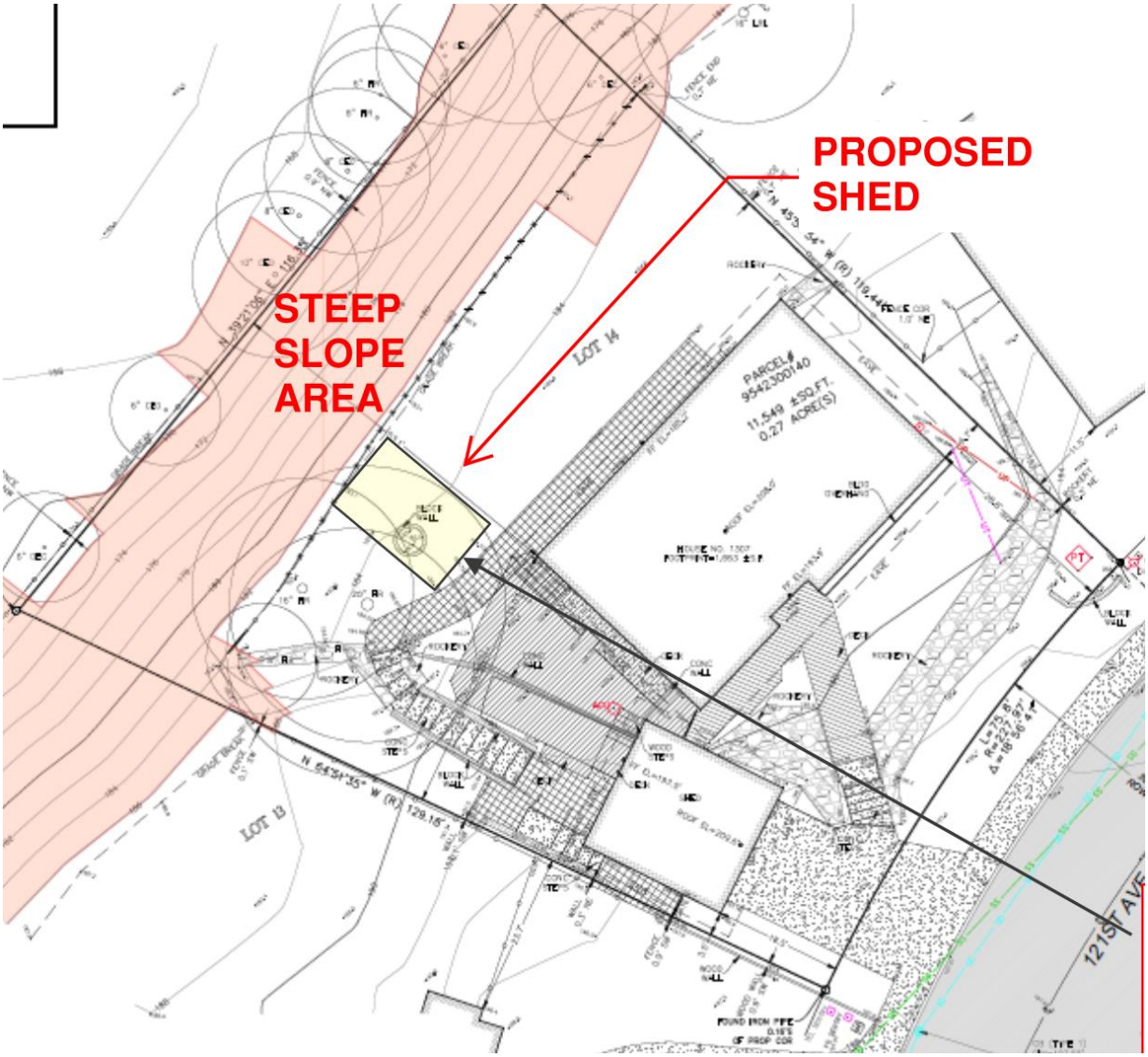
1. Site Plan – Attached
2. Mitigation Planting Plan – Attached
3. Geotechnical Report (GeoResources, dated December 17, 2020) – In File
4. Critical Areas Report – In File

I. Proposal Description

The applicant is requesting approval of a Critical Areas Land Use Permit for the construction of a 192 SF garden shed within the top-of-slope buffer from a steep slope critical area. The shed is located approximately 5 feet from the top of the steep slope.

The shed is proposed to be constructed in rear yard of the site; at the top of the steep slope area in the lower lawn. The existing conditions of the proposed location includes landscape rock and one landscaping shrub that will be relocated. No trees are proposed to be removed or impacted by the construction of the shed. The shed is proposed to be constructed on pin piles; no grading or excavation is proposed for a foundation. No plumbing or water service utilities will be extended to the garden shed.

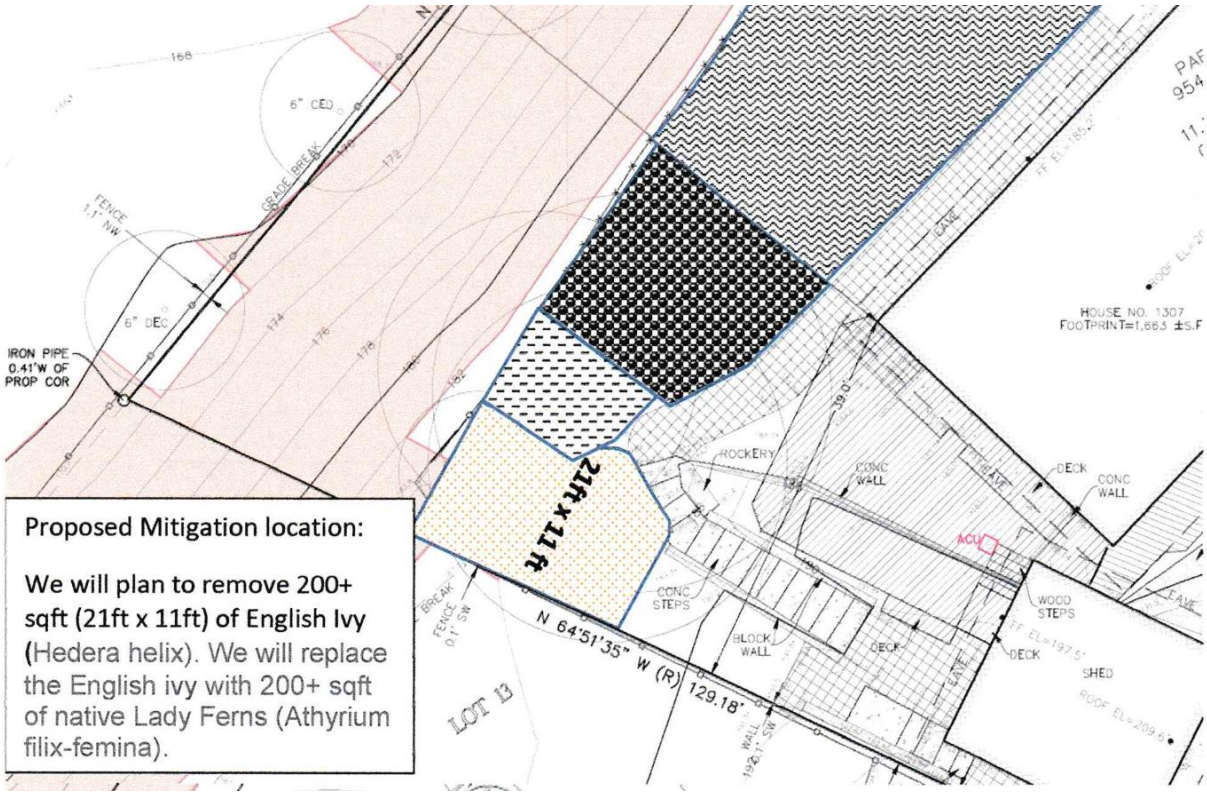
FIGURE 1 –Site Plan



To mitigate for the impacts of the garden shed, the applicant is proposing to remove approximately 200 square-feet of English Ivy along the south property line within the critical area buffer. The ivy is proposed to be replaced with native groundcover (Lady Ferns). See Figure 2.

A Critical Areas Land Use Permit is required per LUC 20.25H.120.C.3 for modifications to a steep slope top-of-slope buffer. A Critical Area Report is required to modify code standards, to allow for construction of an accessory structure within the critical area buffer. The Critical Areas Report must demonstrate the proposal would result in equal or better critical area functions and values as compared to the application of the standard code requirements.

FIGURE 2 –Mitigation Planting



II. Site Description, Zoning, Land Use and Critical Areas

A. Site Description

The project site is located at 1307 121st Ave SE in the Richard's Valley subarea. The lot is 11,549 square feet in size and is developed with a single-family residence, which is accessed off 121st Ave SE.

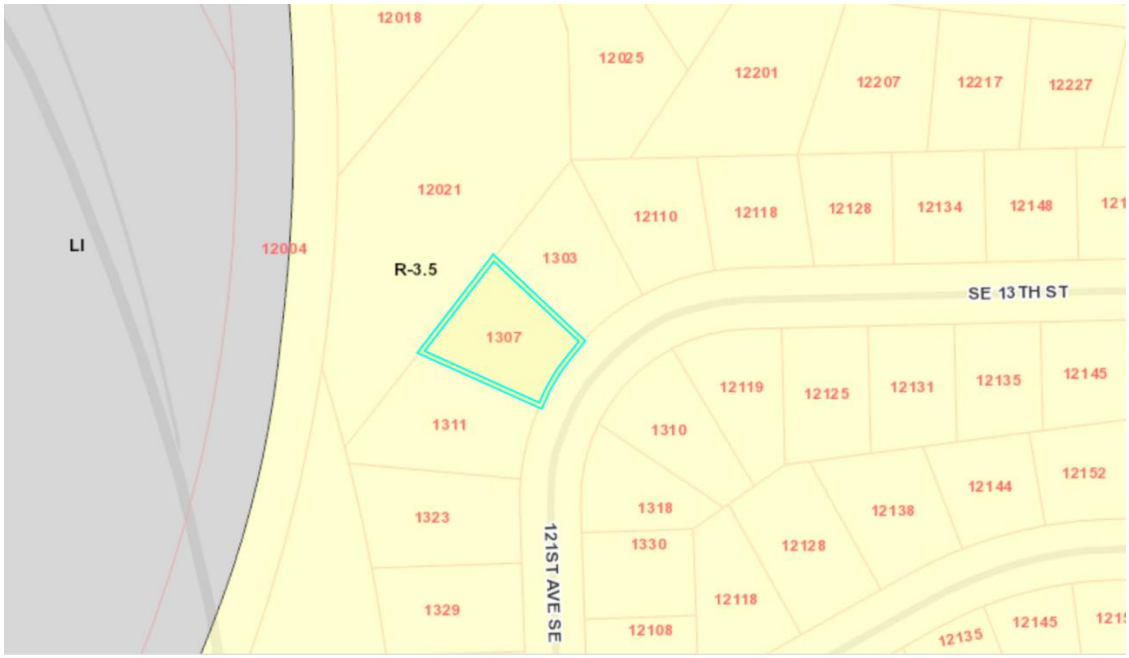
The rear portion of the site contains a steep slope critical area (40%-60% slope) sloping down to the northwest, with an elevation change of approximately 14 feet (from 182 to 168 foot elevation). The steep slope area is well-vegetated and includes a mix of invasive species (ivy) and native fir and cedar trees at the toe of slope.

FIGURE 3 –Existing Site Conditions

B. Zoning

The property is zoned R-3.5, a Single-Family Residential zoning district, and is located in the Richard's Valley subarea. The surrounding area to the is zoned R-3.5 and is developed with single family homes, with properties zoned Light Industrial (LI) to the west of I-405.

FIGURE 4 –Zoning



C. Land Use Context

The Comprehensive Plan designation for this site and adjacent parcels is Single-Family Medium Density (SF-M) and the surrounding area is developed with single family residences. The proposal for a detached garden shed is consistent with the other residential uses in this Land Use designation.

FIGURE 5 – Site Context

D. Critical Areas Functions and Values

i. Geologic Hazard Areas

Geologic hazards pose a threat to the health and safety of citizens when commercial, residential, or industrial development is inappropriately sited in areas of significant hazard. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided (WAC 365-190).

Steep slopes may serve several other functions and possess other values for the City and its residents. Several of Bellevue's remaining large blocks of forest are located in steep slope areas, providing habitat for a variety of wildlife species and important linkages between habitat areas in the City. These steep slope areas also act as conduits for groundwater, which drains from hillsides to provides a water source for the City's wetlands and stream systems. Vegetated steep slopes also provide a visual amenity in the City, providing a "green" backdrop for urbanized areas enhancing property values and buffering urban development.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The site is located in the R-3.5 zoning district. The proposed garden shed conforms to the R-3.5 zoning dimensional standards.

B. Critical Areas Requirements LUC 20.25H:

LUC 20.25H.120.A.2 defines steep slope areas as *those areas that contain slopes of greater than 40%, have a rise of at least 10 feet, and exceed 1,000 SF in area.* Regulated steep slopes are protected by a 50-foot top-of-slope buffer and a 75-foot toe-of-slope structure setback (LUC 20.25H.120.B.1).

The applicant submitted a limited geologic evaluation (GeoResources, dated December 17, 2020) prepared by a licensed geotechnical engineer. The geotechnical report evaluated the site for landslide hazards and indications of potential slope instability. The report concluded that the site does not contain features or evidence of landslide activity and that the steep slope area appears to be stable.

The City of Bellevue Land Use Code Critical Areas Overlay District (LUC 20.25H) establishes performance standards and procedures that apply to development on any site which contains in whole or in part any portion designated as critical area, critical area buffer or structure setback from a critical area or buffer. The following sections of the Land Use Code apply to the proposal.

i. Consistency with LUC 20.25H.125 - Performance standards - Landslide hazards and steep slopes.

In addition to generally applicable performance standards set forth in LUC 20.25H.055

and 20.25H.065, development within a landslide hazard or steep slope critical area or the critical area buffers of such hazards shall incorporate the following additional performance standards in design of the development, as applicable. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function.

A. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;

Finding: The garden shed is to be located on a relatively flat impervious surface at the top of the steep slope area. It is to be constructed on pin piles and no grading or excavation is required for construction of the shed. There is no alteration of the steep slope area or the natural contours of the site proposed.

B. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

Finding: The garden shed is to be located on a relatively flat impervious surface at the top of the steep slope area, preserving the most critical steep slope portion of the site and its natural landforms. The proposed shed location and construction avoids impacts to existing tree and shrub vegetation.

C. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

Finding: The geotechnical report states that the proposed garden shed is not at risk due to landslide activity or failure of the steep slope. The presence and location of the shed does not increase the risk of landslide activity or soil erosion nor would it result in a need for increased buffers on neighboring properties.

The Land Use Code requires applicants to record a hold harmless agreement for any approvals to modify steep slopes, buffers, or structure setback areas. A hold harmless agreement is required to be recorded to release the City of Bellevue from any and all liability associated with construction of the garden shed. It must be reviewed by the Development Services Department for formal approval, recorded with the King County Assessor Office and the recorded copy submitted to the City. **See Conditions of Approval regarding a Hold Harmless Agreement in Section IX of this report.**

D. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes where graded slopes would result in increased disturbance as compared to use of retaining wall;

Finding: No retaining walls are currently proposed. The construction of the garden shed will not involve grading or disturbance of the steep slope or grading within the steep slope structure setback area.

E. Development shall be designed to minimize impervious surfaces within the

critical area and critical area buffer;

Finding: No new impervious surfaces are proposed within the steep slope or steep slope buffer. The 192 SF garden shed minimizes impervious surface area on the 11,549 SF parcel by constructing the shed on an existing impervious area.

F. Where change in grade outside the building footprint is necessary, the site retention system should be stepped and regrading should be designed to minimize topographic modification. On slopes in excess of 40 percent, grading for yard area may be disallowed where inconsistent with this criteria;

Finding: The garden shed is to be constructed on an existing flat, impervious area without grading or topographic modification. Pin piles will be used for construction and no grading or excavation outside of the building footprint is proposed.

G. Building foundation walls shall be utilized as retaining walls rather than rockeries or retaining structures built separately and away from the building wherever feasible. Freestanding retaining devices are only permitted when they cannot be designed as structural elements of the building foundation;

Finding: No freestanding retaining walls are proposed. The garden shed will not be constructed on a foundation.

H. On slopes in excess of 40 percent, use of pole-type construction which conforms to the existing topography is required where feasible. If pole-type construction is not technically feasible, the structure must be tiered to conform to the existing topography and to minimize topographic modification;

Finding: Not applicable. The proposed garden shed is not located in the steep slope area, on slopes in excess of 40 percent.

I. On slopes in excess of 40 percent, piled deck support structures are required where technically feasible for parking or garages over fill-based construction types; and

Finding: Not applicable. The proposed garden shed is not located in the steep slope area, on slopes in excess of 40 percent.

J. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.

Finding: The garden shed is located on an existing impervious area at the top of the steep slope and no tree or shrub vegetation was impacted. To mitigate for the permanent disturbance of the 192 SF garden shed within the steep slope structure buffer, the applicant is proposing the removal of existing English Ivy and planting of native ground cover along the south perimeter of the site to improve vegetation diversity and create a multi-canopy vegetation structure, thereby improving critical area functions.

ii. Consistency with LUC 20.25H.140 – Critical areas report – Additional provisions for landslide hazards and steep slopes.

The applicant submitted a limited geologic evaluation (GeoResources, dated December 17, 2020) prepared by a licensed geotechnical engineer, see referenced document #3 in file for geotechnical report. The geotechnical report evaluated the site for landslide hazards and indications of potential slope instability. The report concluded that the site does not contain features or evidence of landslide activity and that the steep slope area appears to be stable.

iii. Consistency with LUC 20.25H.145 – Critical areas report – Approval of modification

Modifications to geologic hazard critical areas and critical area buffers shall only be approved if the Director determines that the modification:

A. Will not increase the threat of the geological hazard to adjacent properties over conditions that would exist if the provisions of this part were not modified;

Finding: The geotechnical report concluded that the presence and location of the garden shed does not increase the risk of landslide activity or erosion on the steep slope area and will not increase the threat of geologic hazard to adjacent properties.

B. Will not adversely impact other critical areas;

Finding: The garden shed location will not directly impact the steep slope critical area and there are no other critical areas on the site.

C. Is designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than would exist if the provisions of this part were not modified;

Finding: The geotechnical report concluded that the garden shed is not at risk due to landslide activity or the stability of the steep slope area, provided that full vegetation is maintained on the steep slope area.

D. Is certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington;

Finding: A geologic evaluation (GeoResources, dated December 17, 2020) was prepared by a licensed geotechnical engineer. The geotechnical report evaluated the site for landslide hazards and indications of potential slope instability. The report

concluded that the site does not contain features or evidence of landslide activity and that the steep slope area appears to be stable.

The geotechnical report concluded that the presence and location of the garden shed does not increase the risk of landslide activity or erosion on the steep slope area and will not increase the threat of geologic hazard to adjacent properties.

E. The applicant provides a geotechnical report prepared by a qualified professional demonstrating that modification of the critical area or critical area buffer will have no adverse impacts on stability of any adjacent slopes, and will not impact stability of any existing structures. Geotechnical reporting standards shall comply with requirements developed by the Director in City of Bellevue Submittal Requirements Sheet 25, Geotechnical Report and Stability Analysis Requirements, now or as hereafter amended;

Finding: The Geotechnical Report prepared by GeoResources (dated December 17, 2020) complies with this standard.

F. Any modification complies with recommendations of the geotechnical support with respect to best management practices, construction techniques or other recommendations; and

Finding: The geotechnical report concluded that the garden shed is not at risk due to landslide activity or the stability of the steep slope area, provided that full vegetation is maintained on the steep slope area and that runoff is not directed over the steep slope area. The applicant will not remove or impact vegetation in the steep slope area and is informed that removal or disturbance of vegetation in the steep slope critical area, other than routine landscape maintenance, is restricted by code standards.

G. The proposed modification to the critical area or critical area buffer with any associated mitigation does not significantly impact habitat associated with species of local importance, or such habitat that could reasonably be expected to exist during the anticipated life of the development proposal if the area were regulated under this part. (Ord. 5680, 6-26-06, § 3)

Finding: The garden shed is to be located on an existing impervious area and no native tree or shrub vegetation was removed or impacted. Therefore, the proposal did not impact wildlife habitat functions or impact habitat associated with species of local importance. The plantings installed along the south perimeter of the site will improve wildlife habitat conditions on the site.

IV. Public Notice and Comment

Application Date:	December 28, 2020
Public Notice (500 feet):	February 4, 2021
Minimum Comment Period:	February 18, 2021

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on February 4, 2021. It was mailed to property owners within 500 feet of the project site. No public comments or comments from adjacent property owners was received.

V. Summary of Technical Reviews

A. Clearing and Grading:

The Clearing and Grading Division of the Development Services Department reviewed the garden shed and noted there was no grading or excavation to construct the shed. Due to the location of the proposed shed in the top-of-slope critical area buffer, a Clearing & Grading Permit is required.

VI. Decision Criteria

A. Consistency with LUC 20.25H.255 – Critical areas report – Decision criteria

General.

Except for the proposals described in subsection B of this section, the Director may approve, or approve with modifications, the proposed modification where the applicant demonstrates:

1. **The modifications and performance standards included in the proposal lead to levels of protection of critical area functions and values at least as protective as application of the regulations and standards of this code;**

   Finding: The garden shed is to be constructed on an existing impervious surface area at the top of the steep slope. There is no grading or excavation proposed that will impact the steep slope area or that would compromise slope stability. The plantings installed along the south perimeter of the site will improve wildlife habitat conditions and provide a level of protection of critical area functions at least as protective as with the application of the standards of this code.

2. **Adequate resources to ensure completion of any required mitigation and monitoring efforts;**

   Finding: The applicant has proposed mitigation plantings along the south perimeter of the site. The vegetation will be maintained by the applicant with the other display garden areas on the site. The applicant is aware that removal or disturbance of vegetation in the steep slope area/steep slope buffer and structure setback, beyond routine landscape maintenance is restricted by code standards.

3. **The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical**

area buffers off-site; and

Finding: The modification to allow the garden shed within the steep slope buffer will not be detrimental to the functions and values of the steep slope critical area nor impact functions and values of critical areas and buffers off-site.

4. The resulting development is compatible with other uses and development in the same land use district.

Finding: The subject site is zoned for and surrounded by single family development. The garden shed is compatible with other residential uses and development in the same land use district.

B. Consistency with LUC 20.30P.140 – Critical Areas Land Use Permit – Decision criteria.

1. The proposal obtains all other permits required by the Land Use Code;

Finding: Per BCC 23.05.090.B.3.a, the shed is not required to get a building permit. However, because the shed is located in a steep slope buffer a clearing and grading permit is required per BCC 23.76. **See Conditions of Approval regarding Clearing and Grading Permit in Section IX of this report.**

2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

Finding: The garden shed is to be located in an existing impervious surface area at the top of the steep slope area. It is to be constructed on pin piles with no grading or excavation. The proposed design and construction avoids direct impacts to the steep slope and results in the least impact on the steep slope critical area. No clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work. **See Conditions of Approval regarding a Rainy Season Restrictions in Section IX of this report.**

3. The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable, and;

Finding: As discussed in Section III, the applicable performance standards of LUC 20.25H are being met.

4. The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;

Finding: No public utilities (water, sewer) were extended to the garden shed. The residential site is served by adequate public facilities, utilities and fire protection.

5. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and

Finding: The applicant will be removing approximately 200 SF of invasive ivy and replacing with native groundcover (Lady Ferns) along the south perimeter of the site to mitigate for the permanent disturbance of the 192 SF garden shed within the steep slope structure buffer. The plantings will improve vegetation diversity and a multi-canopy vegetation structure to improve critical area functions. The mitigation is consistent with the requirements LUC 20.25H.210.

6. The proposal complies with other applicable requirements of this code.

Finding: As discussed in this report, the proposal complies with all other applicable requirements of the Land Use Code.

VII. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** the proposal for a garden tool shed within the 50-foot top-of-slope buffer, setback approximately 5 feet from the top-of-slope.

VIII. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

Applicable Ordinances	Contact Person
Clearing and Grading Code- BCC 23.76	Savina Uzunow, 425-452-7860
Land Use Code- BCC 20.25H	Richard Hansen, 425-452-2739

The following conditions are imposed under the Bellevue City Code referenced:

1. **Clearing and Grading Permit Required**: Approval of this Critical Areas Land Use Permit does not constitute an approval of any construction permit. Plans submitted as part of any permit application shall be consistent with the activity permitted under this approval.

   Authority: Land Use Code 20.30P.140
   Clearing & Grading Code 23.76.035

Reviewer: Savina Uzunow, Development Services Department, Clearing & Grading Section

2. **Geotechnical Review:** The project geotechnical engineer must review the final construction plans. A letter from the geotechnical engineer stating that the plans conform to the recommendations in the geotechnical report and any addendums and supplements must be submitted to the clearing and grading section prior to issuance of the construction permit.

   Authority: Clearing & Grading Code 23.76.050
   Reviewer: Savina Uzunow, Development Services Department, Clearing & Grading Section

3. **Rainy Season Restrictions:** Due to the critical areas on the site, no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

   Authority: Bellevue City Code 23.76.093.A,
   Reviewer: Savina Uzunow, Development Services Department, Clearing & Grading Section

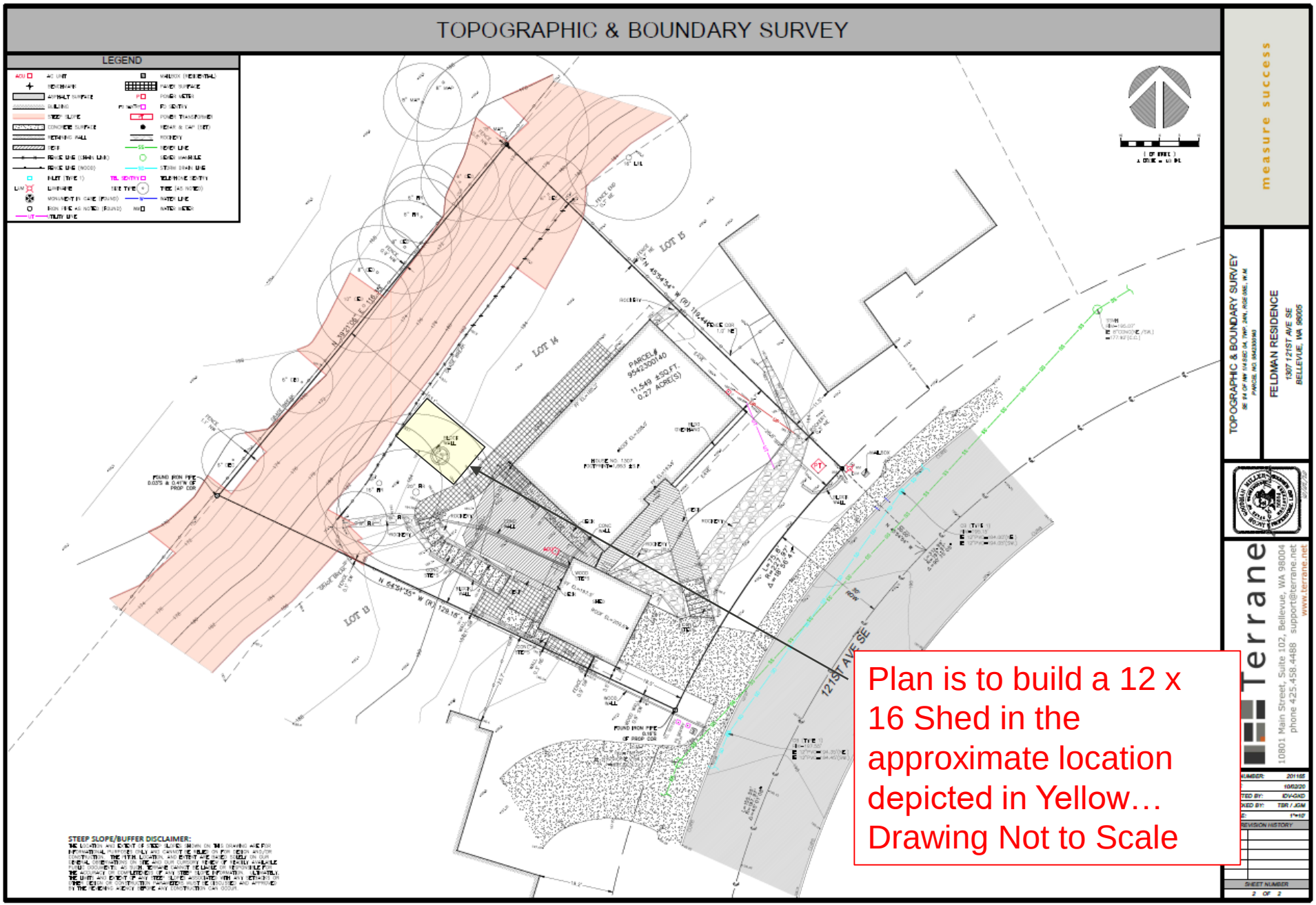
4. **Final Mitigation Plan:** Applicant shall submit the final mitigation plan with the required clearing and grading permit. Plan shall be consistent with this approval. Plants shall be installed after shed is installed and shall be maintained and monitored for a minimum of 5 years to establish mitigation planting.

   Authority: Land Use Code 20.25H
   Reviewer: Richard Hansen, Development Services Department

5. **Hold Harmless Agreement:** The property owner shall submit a hold harmless agreement releasing the City of Bellevue from any and all liability associated with construction of the garden shed The agreement must meet City requirements and must be reviewed by the Development Services Department for formal approval, recorded with the King County Assessor Office and the recorded copy submitted to the City.

   Authority: Land Use Code 20.30P.170
   Reviewer: Richard Hansen, Development Services Department

Feldman Shed Site Plan – 1307 121st Ave SE



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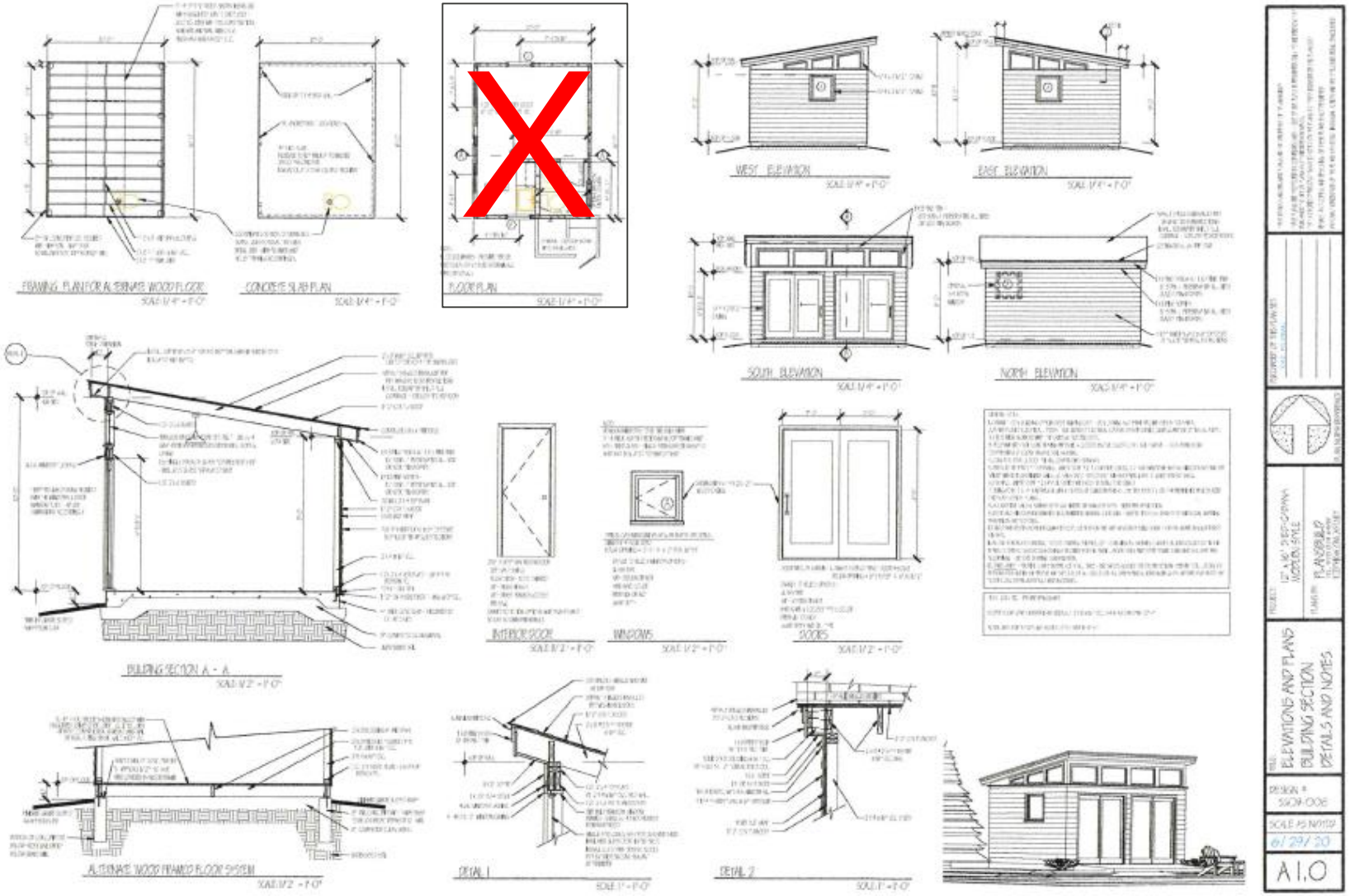

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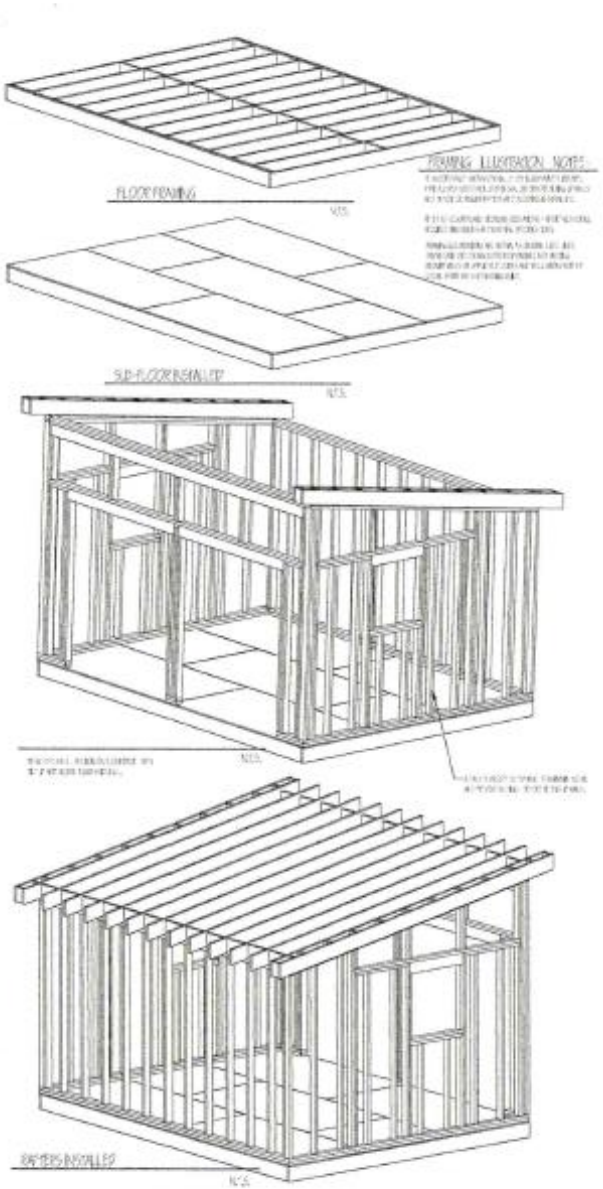
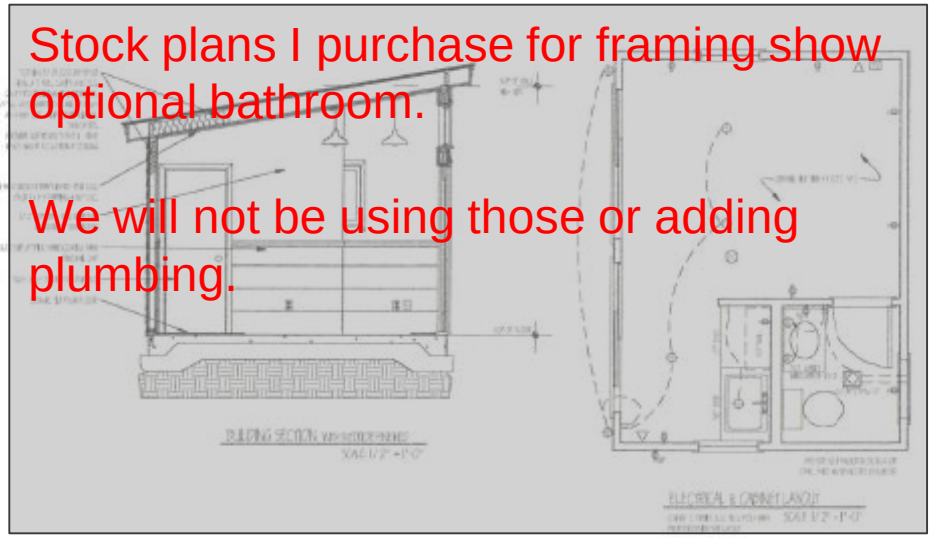
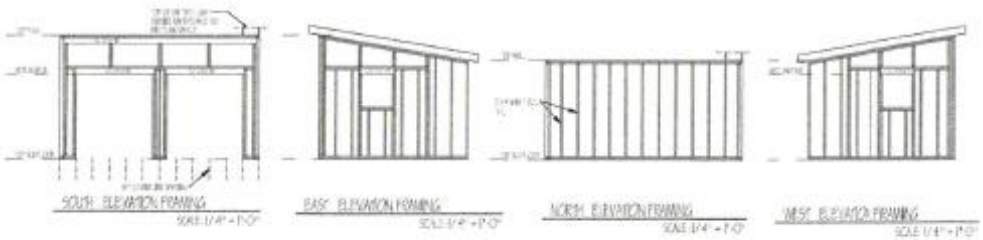
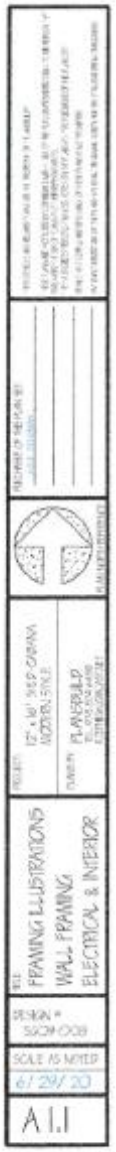


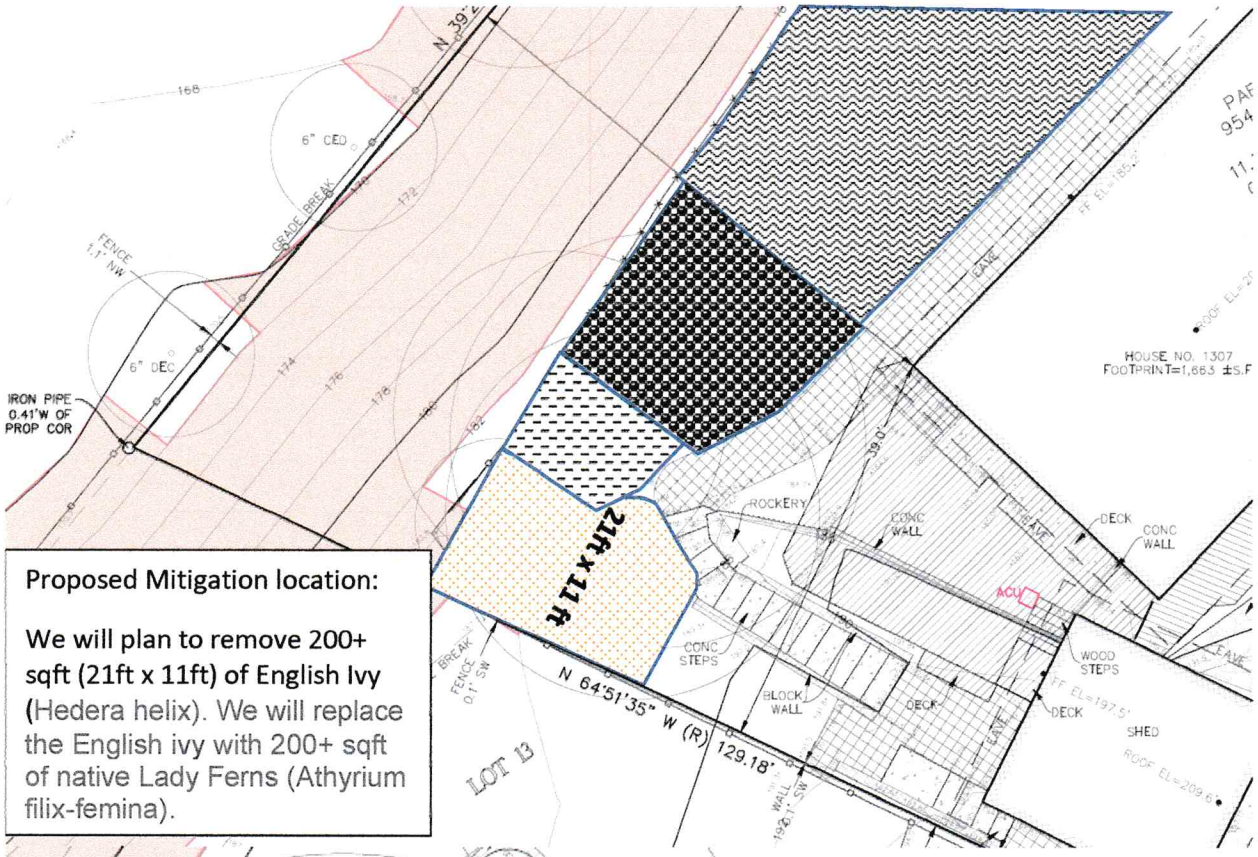
Stock plans I purchase for framing show optional bathroom.

We will not be using those or adding plumbing.



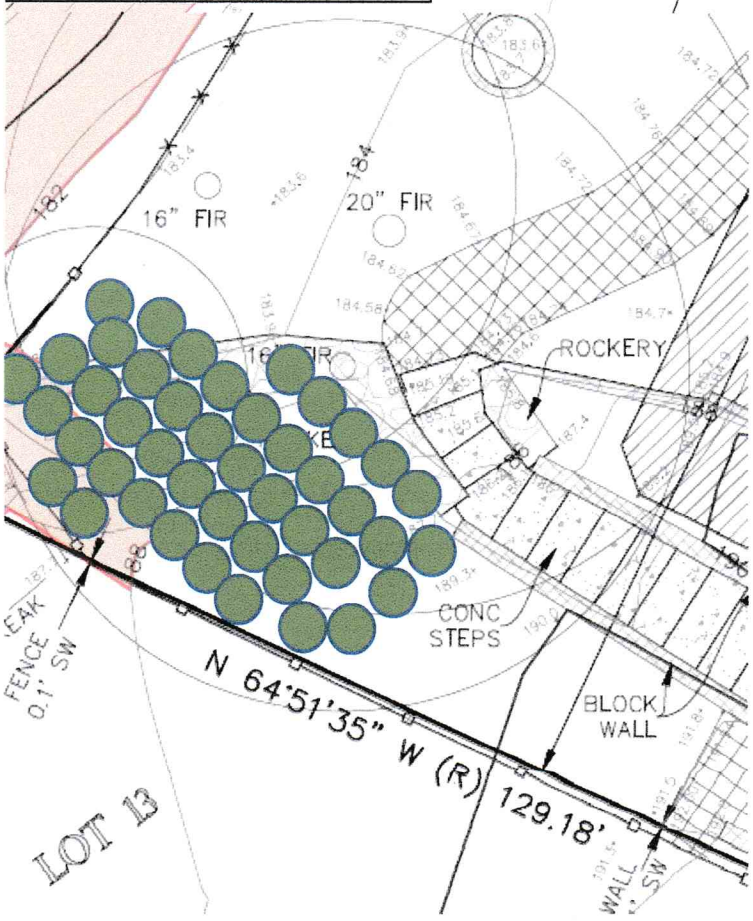






Proposed Mitigation location:

We will plan to remove 200+ sqft (21ft x 11ft) of English Ivy (Hedera helix). We will replace the English ivy with 200+ sqft of native Lady Ferns (Athyrium filix-femina).



Lady Ferns (Athyrium filix-femina).

Approximately 53 units/plants

Planted 24 inches on center

3' mature height

Planted in a ~21ft x 11ft area